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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,319	12/19/2001	Kouzo Nagashima	SHO 1007-01US	8141
28327	7590	05/04/2006	EXAMINER	
THE LAW OFFICE OF JOHN A. GRIECCI 703 PIER AVE., SUITE B #657 HERMOSA BEACH, CA 90254			HARPER, TRAMAR YONG	
			ART UNIT	PAPER NUMBER

3714

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/025,319

Applicant(s)

NAGASHIMA, KOUZO

Examiner

Tramar Harper

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,4,6-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4,6-13 and 15-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/1/04, 8/9/04, 12/19/05, 4/24/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges receipt of amendment on 02/14/05. The arguments set forth in the response are addressed herein below. Claims 1, 3, 5, and 14 are cancelled. Claims 2, 4, 6-13, and 15 remain pending with newly added claims 16-21.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2,4, 6-12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the US Patent of Miura (6,322,451) in view of the US Patent of Begis (6,024,643).

In terms of claims 2,4, 6-9, and 12, Miura teaches a tournament game system that allows players to choose opponents to compete against (Abstract). Players can choose other players they desire to play against based upon the listed players skills

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(Abstract). Additionally, if no opponents are available for play, virtual players or computer opponents can be substituted (Abstract and Fig. 5). Miura also teaches that if a player does not choose available competitors, a computer will generate a virtual player to substitute as a competitive player (Col 6:1-47). Miura lacks teaching a computer producing virtual game players when available game players is below a predetermined number. Begis teaches a network game system that allows for remote, virtual competition in single and tournament game formats (Abstract). Begis also teaches that a player can play with virtual players, representing real players, or allow a completely virtual competition played by only virtual players (Col 5:40-45). Other embodiments taught by Begis show teachings of real opponents competing (Col 7:15-20), real players versus computer generated opponents (Col 7:15-20), and teams competing against real or virtual players (Col 8:20-30). One impetus for Begis's system is to assist players in finding suitable opponents for competition (Col 2:54 - Col 3:12). In this process Begis provides that if a player needed for a game is not available, then a computer program will continue to search for suitable opponents (Col 7:63-66). As such, one would be motivated to modify Miura to implement a system that matches the best suited opponent to a player, using real or virtual players so that a player's time is not wasted on an unsuitable match (Begis: Col 7:60-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miura to use the Begis matching system which will provide the best suitable player for competition, including virtual players, so that a player's time is not wasted.

As for claim 10, one of the competitive games is described as chess (Begis Col 2:54-64).

Regarding the newly added language to claims 7-9, noting at least Figure 6 of Begis one can readily see that each player profile, which can result in the creation of a Proxy player, has different percentages for actions to be accomplished in the game. Therefore, they appear to have different thinking routines to the player who is playing opposite of them. A proxy player based upon profile 50 will have a much slower combat response time than that of a proxy player based upon profile 60. These profiles are applying different data into the game program and therefore simulate different players. Therefore, the combination as previously set forth includes the newly added language at least as much as to the specificity claimed.

As for claim 11, games can be in tournament format as describe above, which generally encompasses a plurality of the same kinds of games if not a series of the same game.

As for claim 15, playing against virtual players is discussed for use as a training mechanism to develop player skills, wherein players are provided suitable skill matched opponents (Begis: Col 5:45-56) or imposed with some handicap to insure equal difficulty for both players. Playing against virtual players is also taught as providing a strategy to defeat opponents in future games (Begis: Col 7:10-14).

As for claim 16-21, is rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Begis as applied to claims 2,4, 6-12, and 15 above, and further in view of Quake III Arena™ © 1999 Id Software, Inc. Miura teaches that a player can

select an opponent and reserve a game space to play against an opponent. If the opponent is playing a match at the time a notification flag is activated indicating the status of the opponent (Fig. 5). The player is on standby until the opponent is available, as which notification will be provided (Col 2:39-54, Col 6:31-43). Thus, this is interpreted as a means for notification that the preparation of the upcoming game is complete. Although not disclosed, inherently, while the player is waiting for an opponent, the server connection is not active until notification occurs. Miura discloses that displaying the other players' information give the player a feeling of playing actual players rather than a computer, enhancing the virtual reality. Also, the other players' information stimulates the player to play a head-to-head or cooperation game (Col 1:60-65). Other players' information may include game scores, histories, etc (Col 2:1-5). Quake III Arena™ is a tournament game where a player can compete against virtual and actual players on a server. The actual and virtual players appear by name on a player list within the game. The virtual players or "bots" appear in the same fashion as the actual players (Quake III Arena™ game manual: pages 3-8, 22). It would have been obvious to one of ordinary skill at the time of the invention to disguise the virtual players or give them actual names to achieve the above effect, as taught by Miura.

As for claim 13, is rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Begis as applied to claims 2,4, 6-12, and 15 above, and further in view of the US Patent of Luciano Jr. (6,024,643). Miura in view of Begis teach the limitations as discussed above, but does not teach recording game play for later use. Luciano teaches a network competition game between two or more players (Col 11:57-65) with a

memory for recording game play (Col 11:34-52). The recording device is for recording game play so that a user reassures oneself that proper prizes were awarded. One would be motivated to modify Miura in view of Begis to use a game play recording mechanism so that a player can be assured that the proper outcome was determined. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Miura in view of Begis to implement the system taught by Luciano so that users can be assured that game outcome accuracy is insured.

### ***Response to Arguments***

Applicant's arguments filed February 14, 2005 have been fully considered but they are not persuasive. Inherently within in a network, a host site, server, and client are linked or connected, but actual interaction or transmission of data only occurs upon the request or submission of data. As a result, connection fees and interference is limited. Thus, if there are no available human players the interaction or transmission of data does not occur until a notification means of an available actual or virtual player occurs, such as the notification means as taught by Miura. As stated above, Begis's player profiles provides a player with different "thinking routines" to compete against. Begis teaches that competing against player profiles produce advantages over (knowingly) playing against a computer. Miura teaches that the availability of the other players' information gives the player the feeling of competing against real players rather than the computer, which would motivate Miura to make the appearance of the virtual players seem real. In the understanding of the invention, claims, and prior art teaches that the combination of Miura in view of Begis includes the added claimed limitations.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 4:30pm.

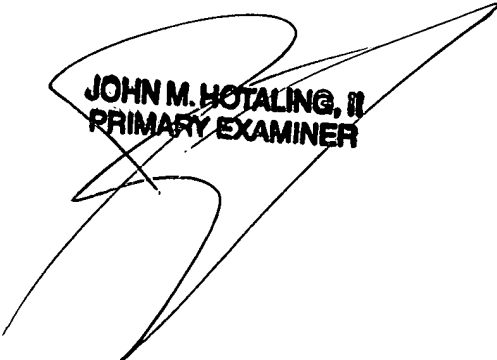
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TH

4/27/06

  
**JOHN M. HOTALING, II**  
**PRIMARY EXAMINER**